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August 19, 2016

**Via Email and U.S. Mail**

Mark Stultz, Zoning Administrator  
Department of Planning and Zoning  
COUNTY OF LOUDOUN  
1 Harrison Street, S.E., Third Floor  
P. O. Box 7000  
Leesburg, Virginia 20177-7000

**Re: Beacon Hill Golf Course**

Dear Mark:

Our firm represents Beacon Hill Community Association, Inc. (the "Owner") the owner of approximately 318.7 acres of AR-1 zoned real property described as PIN 267-25-9266; 267-16-5029; 268-16-5446; 268-35-9708; 268-38-1526; 269-36-5292; and 269-47-5858 (collectively "the Property") developed with a golf course consistent with Loudoun County's approval of record plat SBRD 2000-0001, Beacon Hill, Phase 2 A, approved December 27, 2000 for Rural Hamlet Lots and associated Open Space uses. The referenced Record Plat was approved prior to December 6, 2006, pursuant to the Rural Hamlet Option now codified in Section 5-702 of the Revised 1993 Loudoun County Zoning Ordinance (the "Zoning Ordinance"). Section 2-106(B) of the Zoning Ordinance includes grandfathering provisions for lots recorded prior to December 6, 2006 and developed under a hamlet subdivision. The attached March 25, 2014 Zoning Determination concluded the Rural Hamlet lots and associated Open Space approved for the Property pursuant to the referenced Record Plat fall within the grandfathering protections of Zoning Ordinance Section 2-106(B) and therefore uses on the Property are to be governed by Section 5-702 of the Zoning Ordinance.

Section 5-702 (D)(2) of the Zoning Ordinance states all areas of land devoted to the Rural Hamlet Option other than building area lots and road rights-of-way, shall be subjected to a permanent open space easement. Consistent with Section 5-702 (D)(2) the open space portions of the Property are subject to an open space easement, a copy of which is enclosed with this letter (the "Deed of Open Space") that provides as follows:

8. *No building, facility or other structure shall be erected or constructed within the Easement Area unless:*

(a) *Such structure is a new structure which is designed, constructed and utilized in connection with and accessory to the continued agricultural, horticultural, silvicultural and naturalistic uses of the Property; or*

*(b) Such structure is designed, constructed and utilized solely for a use as set forth under the Rural Hamlet provisions of the Loudoun County Zoning Ordinance for Open Space Use.*

*9. Development of the Easement Area shall not be permitted except as provided (i) in this Deed, and (ii) in the Rural Hamlet provisions of the Loudoun County Zoning Ordinance for Open Space Uses.*

Section 5-702 (D)(2) of the Zoning Ordinance lists uses permitted in open space areas subject to an easement such as the Deed of Open Space. Rural Hamlet Option Section 5-702 (D)(2)(d) lists "Active recreation space, including golf courses" as a permitted use. Rural Hamlet Option Section 5-702 (D)(2)(i) lists "[a]ccessory uses, such as swimming pools, tennis courts, and other accessory uses and structures pursuant to Section 5-101" as permitted uses. Article 8 of the Zoning Ordinance defines a golf course as "[a] tract of land laid out with at least nine holes for playing the game of golf and improved with tees, greens, fairways, and hazards that may include a clubhouse and shelter".

The Owner plans to refurbish and reopen the Beacon Hill Golf Course on the Property and include a golf course clubhouse, a golf shelter/starter house, a golf course maintenance facility, tennis courts and a swimming pool. As you may know a golf course was previously approved and developed on the Property, but the course needs to be renovated. The Owner is considering various locations on the Property all of which are subject to the Deed of Open Space for development of the golf course, the golf course clubhouse, the shelter/starter house, the golf course maintenance facility, tennis courts and the swimming pool.

Based upon the foregoing March 25, 2014 Zoning Determination, the Open Space Easement, and the Rural Hamlet Option provisions of the Zoning Ordinance applicable to the Property pursuant to the grandfathering provisions of Section 2-106 (B) of the Zoning Ordinance, please determine that a golf course, a golf course clubhouse, a golf course shelter/starter house, a golf course maintenance facility, tennis courts and a swimming pool may be developed on the Property without approval of a special exception or other legislative approval.

Please let me know if you have questions about any portion of this letter or its enclosure. Thank you for your attention to this matter.

Very truly yours,



Michael A. Banzhaf  
Reed Smith LLP

Enclosure

cc: Kate Harnett, Association Management Group  
Beacon Hill Board of Directors



## Loudoun County, Virginia

[www.loudoun.gov](http://www.loudoun.gov)

### Department of Building and Development

1 Harrison Street, S.E., P.O. Box 7000, Mailstop #60A, Leesburg, VA 20177-7000

(703) 777-0220

FAX Numbers: Permits (703) 771-5522 • Engineering (703) 737-8993

Zoning & Administration (703) 771-5215

March 25, 2014

William J. Keefe, Planner  
Walsh, Colucci, Lubeley Emrich & Walsh PC  
1 E. Market Street, 3<sup>rd</sup> Floor  
Leesburg, VA 20176

**RE: ZCOR 2014-0021; Beacon Hill Golf Course Property**  
PIN#:267-25-9266, 267-16-5029, 268-16-5446, 268-35-9708, 268-38-1526  
269-36-5292, 269-47-5858

Dear Mr. Keefe:

I am writing in response to your letter dated January 29, 2014, in which you requested a zoning determination regarding the applicable zoning districts that govern the above referenced parcels (the "Property") and the use and development of the Property. I have researched your requests and offer the following response:

The Property is currently mapped in the AR-1 (Agricultural Residential-1) Zoning District and governed under the Revised 1993 Loudoun County Zoning Ordinance ("Zoning Ordinance"). A portion of the Property also contains steep slopes and is subject to the performance standards in Section 5-1508 of the Zoning Ordinance. In addition, a portion of the Property is mapped within the MDOD (Mountainside Development Overlay District) and is subject to the regulations in Section 4-1600 of the Zoning Ordinance. Based on County records, there are no pending or existing zoning violations applicable to the Property.

The parcels were established under the "Rural Hamlet Option" with Record Plat application SBRD-2000-0001, Beacon Hill, Phase 2A, approved" on December 27, 2000. Pursuant to Section 2-106(B) of the AR-1 Zoning District: *"For lots recorded prior to December 6, 2006 and developed under a hamlet subdivision, in accordance with the zoning ordinance in effect at the time of the subdivision, such lots shall follow the Rural Hamlet requirements, including uses, as set forth in this Ordinance."* The Rural Hamlet requirements are provided in Section 5-702 of the Zoning Ordinance.

I note that all the parcels that comprise the Property are located within, and subject to, a "Permanent Open Space Easement" dedicated to the Board of Supervisors as part of the Rural Hamlet development. In addition to the Zoning Ordinance requirements that govern the Rural Hamlet open space, the Permanent Open Space Easement may also contain additional limitations. The County Zoning Administrator does not have the authority to interpret open space easements. The County Attorney's Office provides interpretations of easements on behalf of the Board of Supervisors.

PLEASE NOTE: This opinion is valid only as of this date, and this opinion does not and shall not relieve the owner or any occupant of the property in question from the obligation to comply with all applicable Zoning Ordinance and other County Ordinance requirements. This opinion is based upon the Revised 1993 Loudoun County Zoning Ordinance as it exists today, March 25, 2014, and such Ordinance text is subject to change.

This determination applies solely to the referenced property and is not binding upon the County, the Zoning Administrator or any other official with respect to any other property. No person may rely upon this determination with respect to any property other than the referenced property.

Please be advised that any person aggrieved, or any officer, department or agency of Loudoun County affected by an order, requirement, decision or determination made by an administrative officer in the administration or enforcement of the provisions of the Zoning Ordinance may appeal said decision within thirty days to the Board of Zoning Appeals in strict accordance with Section 15.2-2311 of the *Code of Virginia*. This decision is final and unappealable if not appealed within 30 days. An application package for an appeal may be obtained by visiting the Loudoun County Government Center, 1 Harrison St. S.E., Second Floor, Customer Service, Leesburg, VA. Two copies of the completed application must be submitted to the Department of Building and Development Customer Service counter with the fee payment of \$350.00 within 30 days from the date of this letter.

In addition to the zoning determination request, you have also inquired whether there are any outstanding bonds applicable to the Property. Although not relevant to the Zoning Ordinance or the zoning determination provided above, current County records indicate that there are no outstanding bonds applicable to the Property. In addition, you inquired as to whether the County intends to condemn any part of the Property. The County Zoning Administrator is not authorized to interpret or speculate on matters regarding the condemnation of Property.

Very truly yours,



Val Thomas  
Planner, Zoning Administration

cc: Scott York, Chairman, Board of Supervisors  
Geary M. Higgins, Catoclin District Supervisor  
Nicole Dozier, Zoning Administrator  
Mark Stultz, Deputy Zoning Administrator  
Property owner: Senior Tour Players Fund, I LP, % Williams Mullen PC, Attention: M. Burns,  
222 Central Park Avenue, Suite 1700, Virginia Beach VA 23462

DB. 1861 / 978

DEED OF OPEN SPACE EASEMENT

THIS DEED OF OPEN SPACE EASEMENT, ("Deed") made this 20<sup>TH</sup> day of OCTOBER 2000, between SANDLER AT BEACON HILL, L.L.C., a Virginia limited liability company, ("Grantor"); VIRGINIA TITLE HOLDING CORPORATION, Trustee, ("Trustee"); BANK UNITED, Beneficiary, ("Beneficiary"); and the BOARD OF SUPERVISORS OF LOUDOUN COUNTY, VIRGINIA, a body corporate and politic (the "County") (Grantee).

W I T N E S S E T H:

WHEREAS, Grantor is the fee simple owner of that certain tract of land containing 279.7411 acres described as BEACON HILL, PHASE 2B, located in Catoctin District, Loudoun County, Virginia, which was conveyed to Grantor by deed from Beacon Hill Development, L.C. dated May 3, 1999, of record in the Clerk's Office of the Circuit Court of Loudoun County, Virginia, in Deed Book 1675, at Page 871 (the "Property"); and

WHEREAS, by Deed of Dedication, Subdivision and Easement recorded contemporaneously herewith (the "Deed of Subdivision"), Grantor subdivided said 279.7411 acres, more or less, into: (i) Lots Eighty-Five (85) through One Hundred Six (106), inclusive, Lot One Hundred Eleven (111), and Lot One Hundred Twelve (112), Phase 2B, BEACON HILL; (ii) Lots D1 through D10, inclusive, Hamlet D, Phase 2B, BEACON HILL (the "Hamlet Lots"), and Open Space Parcels 1-D and 2-D and Outlot 3-D (the "Open Space Parcels"), Phase 2B, BEACON HILL; and residue parcels consisting of approximately 75.4731 acres and 57.6401 acres, Phase 2B, BEACON HILL, all in accordance with the Plat dated May 17, 2000, revised through JANUARY 17, 2001, prepared by Huntley, Nyce &

RECORDED / W/ CERTIFICATE  
2001 JAN 17 PM 3: 32

LOUDOUN CO. VA  
TESTE: *Erin M. [Signature]* .CLERK

Associates, LTD., Land Surveyor, which is attached to the Deed of Subdivision (the "Plat"); and

WHEREAS, the Property is subject to the lien of a certain Deed of Trust dated May 27, 1999, and recorded in Deed Book 1684, at page 261, of the aforesaid land records (the Deed of Trust"), wherein the Property was conveyed unto the Trustee, in trust, to secure a certain indebtedness, as more specifically set forth therein; and

WHEREAS, the Property has agricultural, scenic, natural and aesthetic value in its present state as a natural and rural area which has not been subject to development; and

WHEREAS, in furtherance of the purposes of the Open Space Land Act, Title 10.1, Chapter 17 of the Virginia Code, and as required by Section 5-702 of the Zoning Ordinance and pursuant to County subdivision application # SBRD 2000-0048, the Grantor is willing to grant a perpetual Open Space Easement over all portions of the Hamlet Lots and Open Space Parcels, excluding the designated building areas on the Lots and the public right-of-way areas and private streets as shown on the Plat, thereby precluding the further subdivision of the Property and restricting and limiting the use of the land and contiguous water areas of the Property, on the terms and conditions and for the purposes hereinafter set forth, and the County is willing to accept such Easement; and

WHEREAS, the Grantor and County recognize the agricultural, scenic, natural and aesthetic value of the Property in its present state, and have, by the conveyance of an Open Space Easement to the County, a common purpose of conserving the natural and cultural values of the Property, preserving the dominant agricultural, woodland and wetland character of the Property, and preventing the use or

development of the Property for any purpose or in any manner which would conflict with the maintenance of the Property in its scenic, agricultural, woodland and wetland condition or with purposes of the Open Space Land Act.

WHEREAS, the County is authorized by the Open Space Land Act to accept, hold, and administer Open Space Easements, and possesses the authority to accept and is willing to accept this Open Space Easement under the terms and conditions hereinafter described;

NOW, THEREFORE, for good and valuable consideration, receipt of which all parties acknowledge, and in consideration of the mutual covenants, terms, conditions and restrictions hereinafter set forth, the Grantor hereby grants and conveys unto the County and its successors and assigns forever and in perpetuity an Open Space Easement (the "Easement") of the nature and character and to the extent hereinafter set forth over the Open Space Parcels and that portion of the Property composed of all portions of the Hamlet Lots excluding the designated building areas for such Lots and excluding the areas lying within Public Street dedications and any private ingress/egress easements, as more particularly bounded and described on the Plat (collectively hereinafter referred to as the "Easement Area"), the purposes of which are to preserve the environment of the Property and to maintain permanently the natural and cultural values and the dominant scenic, agricultural, woodland and wetland character of the Property.

To achieve these objectives, the terms, conditions, and restrictions of this Open Space Easement are hereinafter set forth.

1. This Easement shall be perpetual. It is an easement in gross and as such is inheritable and assignable and runs with the lands as an incorporeal interest in the Property enforceable with respect to the Property by the County, against the Grantor and its successors and assigns.

2. Except for those activities which are consistent with the uses permitted under this Deed, no industrial or commercial activities, with the exception of farming, forestry and activities that can be conducted from residential or farm buildings without significant alteration of the external appearance of the buildings as initially constructed, shall be conducted within the Easement Area. Sales by the owner of farm products to the public shall be permitted.

3. Except as related to farming, and as otherwise provided herein, no billboard or advertising material shall be erected within the Easement Area.

4. Except as may be necessary for and accessory to the agricultural and forestry uses and other uses permitted hereunder of the Easement Area, there shall be no dumping of soil, trash, ashes, garbage, waste, or offensive material. There shall be no dumping or filling in of any pond, wetland or waterway except as may be permitted by applicable laws for the purpose of combating erosion. Accumulation of trash, refuse, junk, sludge or other unsightly material is not permitted in the Easement Area.

Notwithstanding the foregoing provisions, there shall be no dumping, storage or placement in the Easement Area of any stumps, brush, grass or other land clearing debris from off-site.



5. Except to the extent reasonably necessary to implement the uses permitted under this Deed, excavation, dredging, mining and removal of loam, gravel, soil, rock, sand, coal and other materials are prohibited, except as necessary for:

(a) Application of good farming and forestry practices;

(b) Maintenance of existing accesses;

(c) Construction and maintenance of farm accesses and accesses to structures permitted within the provisions of this Deed of Easement; provided, however, that accesses shall be designed and constructed to cause a minimum of interference with the existing topography, drainage, vegetation, wildlife, and conservation purposes of the Property;

(d) Reconstruction and extension of wetland areas in accordance with all applicable Federal, State, and County statutes, ordinances and regulations; and

(e) Temporary grading and slope maintenance necessary for the construction of the possible future road connection to Hurley Lane abutting the Easement Area.

6. Except to the extent reasonably necessary to implement the uses permitted under this Deed, removal, destruction and cutting of trees, shrubs, or other vegetation is prohibited except for:

(a) Reasonable maintenance of existing accesses or construction and maintenance of accesses permitted within the provisions of this Deed of Easement; or

(b) Application of good husbandry practices including the prevention or treatment of disease; or

(c) Periodic selective harvest of marketable timber under the supervision of a registered forester; or

(d) Furtherance and perpetuation of the agricultural, horticultural, silvicultural and naturalistic uses of the Property.

All forestal management activities shall be in accordance with sound forestry management guidelines promulgated by the Society of American Foresters for natural forests and plantations. All forestry practices shall serve the dual purpose of:

- (i) Protecting the soils, drainage and water quality of the Property; and
- (ii) Enhancing the sustainable growth and quality of the tree species suited to the site.

7. There shall be no activities or uses detrimental or adverse to water conservation, erosion control, soil conservation and, subject to the primary uses of farming, forestry, and other uses as permitted under this Deed, the preservation of wildlife habitat.

8. No building, facility or other structure shall be erected or constructed within the Easement Area unless:

(a) Such structure is a new structure which is designed, constructed and utilized in connection with and accessory to the continued agricultural, horticultural, silvicultural and naturalistic uses of the Property; or

(b) Such structure is designed, constructed and utilized solely for a use as set forth under the Rural Hamlet provisions of the Loudoun County Zoning Ordinance for Open Space Use.

9. Development of the Easement Area shall not be permitted except as provided (i) in this Deed, and (ii) in the Rural Hamlet provisions of the Loudoun County Zoning Ordinance for Open Space Uses. Notwithstanding the grant of such easement to the County, the eased portions of the Lots shall be maintained by the owners of such Lots, the Open Space Parcels shall be maintained by the owner of such parcels or the Association in accordance with the aforesaid Rural Hamlet Ordinance provisions, and the County shall bear no responsibility or liability for any such maintenance.

10. The property subject to this Easement shall not be further subdivided; provided that this paragraph shall not prohibit the dedication or conveyance to the County of all or any portion of the area designated on the Plat as "50' Reservation for Possible Future Road Right-of-Way" (the "Reservation Areas").

11. Notwithstanding any of the foregoing provisions, the Grantor expressly reserves to itself, its successors and assigns the right to:

(a) Continue the agricultural, forestry and naturalistic uses of the Property.

(b) Continue to hunt, fish or trap on the Property subject to relevant laws.

(c) Improve, repair, restore, alter, remodel or replace the existing and permitted structures with structures of similar size and purpose provided that the

changes are compatible with the conservation purposes of the Property and all other provisions of this Easement.

(d) Continue the use of the Easement Area for all purposes not inconsistent with this Easement.

12. The parties agree that monetary damages would not be an adequate remedy for the breach of any of the terms, conditions and restrictions herein contained, and therefore, in the event that the Grantor, its successors or assigns, violate or breach any of such terms, conditions and restrictions herein contained, the County, its successors, or assigns, may institute a suit, and shall be entitled, to enjoin by ex parte temporary and/or permanent injunction such violation and to require the restoration of the Property to its prior condition. The County, its successors and assigns, by any prior failure to act shall not waive or forfeit, and shall not be deemed to have waived or forfeited, the right to take any action as may be necessary to insure compliance with the terms, conditions and purposes of this Easement.

13. The County, its successors and assigns, shall have the right, with reasonable notice, to enter the Easement Area one time per annum for the purpose of inspecting the Property to determine whether the Grantor, or its successors, or assigns, are complying with the terms, conditions and restrictions of this Easement. This right of inspection does not include the interior of the dwellings.

14. It is the intention of the parties hereto that this Easement, which is by nature and character negative in that the Grantor has restricted and limited its right to use the subject Property rather than granted any affirmative rights to the County except as otherwise set forth herein, be construed at all times and by all parties to effectuate

its terms, conditions and purposes. The County may assign its rights under this Easement to any state or federal agency charged with the responsibility of conservation of natural or farm areas, or to any non-profit, tax-exempt organization engaged in promoting conservation of farm or natural areas; and if such assignee shall be dissolved or shall abandon this easement or the rights and duties of enforcement herein set forth, or if proceedings are instituted for condemnation of this easement, the easement and rights of enforcement shall revert to the County; and if the County shall be dissolved and if the terms of the dissolution fail to provide a successor, then the Court shall appoint an appropriate successor.

15. The Grantor agrees for itself, its successors and assigns to send in writing to the County the names and addresses of any parties to whom any portion of the property subject to this Easement is to be transferred at the time said transfer is executed.

16. The County agrees to hold this Easement exclusively for conservation purposes, i.e., it will not transfer the Easement in exchange for money, other property, or services, except as provided in and permitted by the Open Space Land Act.

17. This Easement shall be construed to promote the purposes of the Virginia Open Space Land Act, to promote the Comprehensive Plan of Loudoun County, and to promote the conservation purposes of this Easement.

18. Although this Easement in gross will benefit the public in ways recited above by encouraging and requiring elements of good land management, nothing herein shall be construed to convey a right to the public of access or use

of the Property, and the Grantor, its successors, and assigns shall retain exclusive right to access and use.

19. Notwithstanding any other provision of this Deed of Open Space Easement, the Loudoun County Zoning Ordinance shall apply to the Property and shall take precedence over this Easement to the extent that the Zoning Ordinance regulations are more restrictive than the terms of this Easement

Agricultural operations shall enjoy the protection of the Right to Farm Act, Section 3.1-22.28, et seq. of the Code of Virginia, as amended.

The covenants agreed to and the terms, conditions, restrictions and purposes imposed as aforesaid shall not only be binding upon the Grantor, but also its agents, personal representatives, heirs, assigns, and all other successors to it in interest, and shall continue as a servitude running in perpetuity with the above described land.

Notwithstanding the foregoing provisions and the perpetual nature of this Easement with respect to the Easement Area, this Easement is and shall be only temporary with respect to the Reservation Areas. The recordation of a deed of dedication, in form accepted and approved by the County, which conveys to the County all or any portion of any Reservation Areas, shall operate to vacate and terminate this Easement, and render this Easement null and void, with respect to that portion of the Reservation Areas so dedicated and conveyed. If any such deed of dedication conveys less than all of a Reservation Area to the County, and such deed recites that the undedicated remainder of the Reservation Areas shall not be required for future street purposes, then this Easement shall from that time forward be converted into a perpetual easement with respect to such undedicated remainder.

THIS DEED FURTHER WITNESSETH that in consideration of the premises and the sum of One Dollar (\$1.00), cash in hand paid, receipt of which is hereby acknowledged, the Trustee, as authorized to act by Beneficiary, as shown by its execution hereto, does hereby subordinate the lien of the Deed of Trust to the easements herein conveyed.

The undersigned warrants that this Deed is made and executed pursuant to authority properly granted by the Articles of Organization and Operating Agreement of the Grantor.


SIGNATURES APPEAR ON FOLLOWING PAGES

IN WITNESS WHEREOF, the Grantor and County have hereunto set their hands and seals in the day and year above written.

GRANTOR:

SANDLER AT BEACON HILL, L.L.C.

By: Odyssey Development, Inc.  
Authorized Agent

By:  (SEAL)  
Name: Larry A. Goldstein  
Title: President

STATE OF VIRGINIA  
COUNTY OF FAIRFAX, to-wit:

I, the undersigned Notary Public in and for the jurisdiction aforesaid, do hereby certify that Larry A. Goldstein as President of Odyssey Development, Inc., Authorized Agent for SANDLER AT BEACON HILL, L.L.C., whose name is signed to the foregoing Deed of Open Space Easement, appeared before me and personally acknowledged the same in my jurisdiction aforesaid.

GIVEN under my hand and seal on October 20, 2000.

 [SEAL]  
Notary Public

My commission expires: 11-30-00